

CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 1
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**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 1
FOR THE REGULAR MEETING OF
TUESDAY, OCTOBER 23, 2001**

ADOPTION AGENDA, HEARINGS

NOTICED HEARINGS:

ITEM-S500: Chevron Gas Station - Sorrento Hills.

Matter of the City Council reconsidering the appeals by Chevron Products and Richard Kiy for Torrey Hills Community Coalition, from the decision of the Planning Commission in denying the appeal of the decision of the Hearing Officer and approving the project with modifications. Chevron Corporation proposes to construct and operate a limited-hours gas station, mini-mart and automated car wash facility on a vacant 2.48-acre site located at the southwest corner of Carmel Mountain Road and East Ocean Air Drive within the Sorrento Hills Community Plan area.

(99-1200-PCD/CUP. Sorrento Hills Community Plan area. District-1.)

(Continued from the meeting of October 16, 2001, Item 332, at the request of the City Manager, for report from Dr. Langerman; Continued from the meeting of April 17, 2001, Item 332, at the request of Councilmember Peters to allow for the time necessary to do a site specific health risk assessment; Continued from the meeting of June 26, 2001, Item 330, at the request of the City Manager for further review; At the meeting of July 31, 2001, Item 351, the project was approved; At the meeting of September 18, 2001, Item 312, the City Council granted the request for reconsideration from their decision of July 31, 2001.)

NOTE: Hearing open. No testimony taken on 10/16/2001.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution in subitem A; and adopt the resolution in subitem B to deny the appeals and grant the permit:

Subitem-A: (R-2002-)

Adoption of a Resolution certifying that the information contained in Environmental Mitigated Negative Declaration (MND) LDR No. 99-1200 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said MND reflects the independent judgment of the City of San Diego as Lead Agency; stating for the record that the final MND has been reviewed and considered by the Council prior to approving the project; and adopting the

Mitigation Monitoring and Reporting Program (MMRP) prepared for the project, pursuant to California Public Resources Code Section 21081.

Subitem-B: (R-2002-)

Adoption of a Resolution granting or denying the appeals and granting or denying Planned Commercial Development/Conditional Use Permit No. 99-1200, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on February 1, 2001, voted 6 - 0 to deny the Sorrento Hills Community Planning Board's appeal and upheld the previous decision of the Hearing Officer approving the project, however the Commission conditioned their approval of this project upon modifications; was opposition.

Ayes: Anderson, Garcia, Steele, Brown, Butler, Stryker
Not present: Skorepa

The Sorrento Hills Planning Committee on October 17, 2000, voted unanimously (8 - 0) to recommend denial of the project.

CITY MANAGER SUPPORTING INFORMATION:

BACKGROUND:

The 2.48-acre project site (Attachments 1 and 2) is located at the southwest corner of Carmel Mountain Road and East Ocean Air Drive within the CC-1-3 (formerly the CA) zone of the Sorrento Hills Community Plan. The Community Plan currently designates this site for neighborhood-commercial development; and includes specific language (and an accompanying illustration) in the plan text (Attachment 12) which identifies a gas station and car wash as permitted uses on the subject property (with approval of a Conditional Use Permit).

The entire site is vacant and has been graded in accordance with a previous map approved for the area. The site is surrounded by vacant property designated for neighborhood-commercial development to the east; vacant property adjacent to the south; and residential development to the north (across Carmel Mountain Road). An existing SDG&E utility easement and power lines is located further to the southwest of the subject property (above the existing steep slope).

On March 17, 1997, the City Council approved an amendment to the Sorrento Hills Community Plan (CPA/RZ 95-0554 - "*Torrey Hills*") which, in part, redesignated the project site from light-industrial to neighborhood-commercial; and amended the plan text to include specific language and an accompanying illustration in the amended plan text (pages 48-49) identifying a gas station and car wash as permitted uses on the project site. The 1997 plan amendment also included a corresponding rezone of the project site from M-1B to CA (now the CC-1-3 zone per the Land Development Code).

The CUP/PCD application for this project was submitted to and deemed complete by staff in

December, 1999; and is therefore subject to the ordinance provisions of the Municipal Code applicable to this site prior to effectuation of the City's Land Development Code (January, 2000). In accordance with those code provisions, the proposed project is subject to the land use and development regulations of the (then-existing) CA zone, and requires approval of a combination Planned Commercial Development/Conditional Use Permit.

On December 13, 2000, the Hearing Officer approved the proposed project. That decision was subsequently appealed to the Planning Commission by the Sorrento Hills Community Planning Board.

On January 24, 2001, the San Diego County Air Pollution Control District (APCD) issued the applicant an "Authority to Construct" permit for the proposed gas station on this site. A second "Authority to Construct" permit was issued to the applicant by APCD on August 6, 2001 (Attachment 18).

On February 1, 2001, the Planning Commission voted to deny the appeal and upheld the previous decision of the Hearing Officer approving the project, subject to specific modifications of the project design and hours of operation for the proposed commercial uses on this site. There was a considerable amount of testimony presented in opposition to the project at this hearing and the decision of the Planning Commission was subsequently appealed to the City Council by both the applicant (Chevron Corporation) and the Torrey Hills Community Coalition (Attachment 9).

On April 17, 2001, the City Council considered the extraordinary appeal of the previous decision of the Planning Commission approving this project. At that hearing, there was a considerable amount of public testimony presented to the Council by area residents regarding potential air quality impacts associated with the proposed gas station use on this site; and specifically, potentially harmful impacts pertaining to human exposure to benzene ionization which may result from the operation of the proposed gas station use proximate to existing high voltage power lines to the south.

As a result of this testimony, the Council voted to continue this project and directed staff to prepare a "site specific health risk assessment," to be prepared by an independent analyst selected by staff. The Council requested that such an analysis (Attachment 15) evaluate the project's potential adverse effects (if any) associated with human exposure to the ionization of benzene molecules which, as alleged by the scientific studies referenced by the Torrey Hills Community Coalition in their appeal, may occur as a result of contact (and subsequent ionization) of benzene emissions from the proposed gas station with existing high voltage power lines located south of this site.

On July 31, 2001, the City Council held a public hearing to consider the analysis and conclusions of a health risk assessment which was prepared by the independent analyst (Dr. Neal Langerman) selected by staff. Following the staff's presentation, and after considering testimony by both project opponents and proponents, the Council voted to approve the proposed project, subject to the previous recommendations of the Planning Commission regarding signage, landscaping and hours of operation.

However, on August 7, 2001, the City Council directed staff to have the City's independent analyst prepare a response to questions raised by representatives of the Torrey Hills Community Coalition (Attachment 16) regarding the methodology used in determining some of the conclusions of the risk assessment. The City's analyst (Dr. Neal Langerman) complied with this request by providing staff

with a 5-page response to the Coalition's issues (Attachment 17).

The City Council also received (for review and consideration) copies of Dr. Langerman's response to the Coalition's issues. However, based upon concerns that the methodology/conclusions referenced in the risk assessment may not be consistent with other air quality agency standards, the City Council voted unanimously (9-0-0) on September 18, 2001, to "reconsider" their previous decision of July 31st, approving the project. Correspondingly, the Council voted to discuss the "reconsideration" matter (and health risk assessment - air quality issue) further at a noticed public hearing on October 16, 2001.

PROJECT DESCRIPTION:

In summary, the project proposes to construct and operate a self-service gasoline station, convenience store, and an automated car wash on the subject property (Attachments 2, 3 and 6). Following is a description of the various building and site improvements proposed for this project:

Gas station: Construct a self-service gas station in the central portion of the property (Attachment 2); including the installation of two (20,000 gallon) underground fuel storage tanks, six fuel pump islands (totaling 12 fuel dispensers), and construction of a 23-foot high steel frame canopy above the fuel pump area. This phase of the project requires approval of a Planned Commercial Development Permit and a Conditional Use Permit (per Municipal Code section 101.0510) to authorize the proposed gas station land use on the site.

Convenience store: Construct a one-story (3,000 square-foot) convenience store in the northeast portion of the property (Attachments 2 and 6). This building (maximum height of 26-feet) would be constructed with natural stone, painted stucco walls, and a clay tile roof. In addition to the retail sale of food, fuel and general merchandise items, the applicant is also proposing to sell alcoholic beverages (beer and wine only) in the convenience store; which requires a Conditional Use Permit (per Municipal Code section 101.0515).

Carwash: Construct a one-story automated car wash in the southeastern portion of the site, behind the proposed fuel pump area (Attachments 2 and 6). The plans indicate that the design of this structure (maximum height of 16-feet, 6-inches) would match the architectural style of the convenience store.

Landscaping: The project's landscape plan (Attachment 3) includes a variety of street trees, shrubs and groundcovers which were selected by the applicant to achieve compliance with the City's Landscape Technical Manual and the Sorrento Hills Community Plan; and features the installation of a number of trees and decorative shrubs along the perimeter of both street frontages; and at various locations within the site's interior.

In accordance with the Planning Commission's approval of this project, and prior to the recordation of any permits with the County Recorder's Office, the applicant will be required to modify the project's landscape plan to replace all deciduous trees with non-deciduous species (24-inch box "broad leaf evergreen"); and install double-rows of evergreen shrubs (4- to 5-foot high) along the project frontage on Carmel Mountain Road to provide increased screening of the proposed commercial uses.

Hours of Operation: The applicant is proposing to operate the gas station and convenience store on this site between the hours of 5:00 a.m. - midnight; and the automated car wash between 7:00 a.m. - 10:00 p.m. The hours of operation proposed for the gas station / convenience store are inconsistent with the maximum hours (5:00 a.m. - midnight) approved by the Planning Commission this project.

NOTE: On March 20, 2001, Council voted unanimously to hear the appeals (Council District 2 - not present, Council District 6 - vacant).

Manager's Recommendation - Deny the appeal of the Torrey Hills Community Coalition and approve the project, subject to PCD / CUP permit conditions by the Planning Commission (Attachment 4).

Environmental Impact - The Mitigated Negative Declaration (MND 99-1200) prepared for the project concluded that specific measures would need to be incorporated into the project design in order to mitigate impacts associated with exterior water quality/ hydrology, noise, and paleontological resources to a less than significant level.

San Diego County Air Pollution Control District (APCD) approval - On January 24, 2001, APCD issued the applicant an "Authority to Construct" permit for the proposed gas station on this site. A second "Authority to Construct" permit was issued to the applicant by APCD on August 6, 2001 (Attachment 18).

Community Planning Group Recommendation: On October 17, 2000, the Sorrento Hills Community Planning Board voted unanimously (8-0) to recommend denial of the proposed project (Attachment 10). The Board cited inconsistencies of the project design with the Community Plan's existing neighborhood-commercial designation, potential environmental impacts (pertaining to air quality, transportation, neighborhood character, public safety), and the applicant's proposal to operate a 24-hour commercial use on the site as the primary reasons for their unfavorable recommendation. Further, the Planning Board recommended the following modifications to the project design:

- a. Limit the hours of operation for the commercial uses on the site from 6:00 a.m. to 9:00 p.m.
- b. Eliminate the car wash use.
- c. Modify the design of the monument signs proposed along the project frontage to comply with signage standards of the "Carmel Valley Community Plan."
- d. Modify the project's landscape plan to provide for more mature trees and shrubs.

Hearing Officer Recommendation - On December 13, 2000, the Hearing Officer approved the proposed project, subject to specific conditions of approval. That decision was appealed to the Planning Commission by the Sorrento Hills Community Planning Board.

Planning Commission Recommendation - On February 1, 2001, the Planning Commission voted (6-0-0) to deny the Sorrento Hills Planning Board's appeal and upheld the previous

decision of the Hearing Officer approving the project. However, the Commission conditioned their approval of this project upon the following modifications:

- a. Limit the hours of operation for the proposed gas station and convenience store from 6:00 a.m. to 10:00 p.m.
- b. Eliminate Chevron's standard "blue stripe" and "Chevron" wordmark from the side panel of the steel canopy proposed above the fuel pump area.
- c. Establish and maintain a 3-foot high landscape berm along the edge of the new building pad fronting on Carmel Mountain Road.
- d. Modify the landscape plan to replace all deciduous trees with non-deciduous species (minimum 24-inch box size "broad leaf evergreen"); and install double-rows of evergreen shrubs (minimum 4- to 5-foot high) along the project's Carmel Mountain Road frontage to provide increased screening of the proposed commercial uses on this site from existing residences to the north.
- e. Modify the size of the monument sign proposed along the project frontage on Carmel Mountain Road to be the same size as the monument sign proposed on East Ocean Air Drive (maximum 3-feet high and 8-feet long).

CITY COUNCIL ACTION: On July 31, 2001, the City Council held a public hearing to consider the conclusions of a "health risk assessment" which was prepared by an independent analyst selected by staff. Following staff's presentation, and after considering testimony by both project opponents and proponents, the Council voted to approve the project, subject to the previous recommendations of the Planning Commission regarding signage, landscaping and hours of operation.

FISCAL IMPACT: None anticipated with this project.

HOUSING AFFORDABILITY IMPACT: None anticipated with this project.

CODE ENFORCEMENT IMPACT: None with this project.

Loveland/Christiansen/KZS

LEGAL DESCRIPTION:

The property is located at 11140 East Ocean Air Drive, on the southwest corner of Carmel Mountain Road and East Ocean Air Drive in the Sorrento Hills community and is more particularly described as Parcel 1, Map 18123.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:**

ITEM-S501: Rehabilitation Loan Agreement with 500 W. Broadway - YMCA Project.

(See CCDC Report dated 9/26/2001. Columbia Redevelopment District of the Expansion Subarea of the Centre City Redevelopment Project Area. District-2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-504)

Finding that the use of funds from the Horton Plaza Redevelopment Project Low and Moderate Income Housing Fund to rehabilitate the property located at 500 West Broadway, in the Centre City Redevelopment Project area, will be of benefit to the Horton Plaza Redevelopment Project.

NOTE: See the Redevelopment Agency Agenda of 10/23/2001 for a companion item.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:**

ITEM-S502: Extension of Memorandum of Understanding Regarding the Ballpark and Redevelopment Project.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-583)

Authorizing and directing the City Manager to execute for and on behalf of the City of San Diego the Fourth Supplement to the Ballpark and Redevelopment Project Implementation Agreement;

Directing the City Manager to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this resolution, consistent with the rights and obligations of the City pursuant to the Ordinance and MOU.

SUPPORTING INFORMATION:

The Memorandum of Understanding regarding the Ballpark and Redevelopment Project [MOU] was approved by the electorate on November 3, 1998. The MOU is currently set to expire by October 31, 2001, unless further extended by agreement of the parties. The MOU was originally set to expire on March 31, 2000, unless extended by agreement of the parties. The parties agreed to extend the MOU until September 30, 2000, further until March 31, 2001, further until September 30, 2001, and most recently until October 31, 2001. The City is proceeding forward to obtain its financing for the project; however, a further extension of the MOU is necessary. The appropriate length of the extension is still under consideration. Staff will have a recommendation regarding the extension at

the Council hearing.

Girard

NOTE: See the Redevelopment Agency Agenda of October 23, 2001 for a companion item.